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104TH CONGRESS
1ST SESSION

H. R. 1668

To establish a program to control fraud and abuse in the medicare program, to increase the amount of civil monetary penalties which may be assessed against individuals and entities committing fraud against the medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 1995

Ms. DANNER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To establish a program to control fraud and abuse in the medicare program, to increase the amount of civil monetary penalties which may be assessed against individuals and entities committing fraud against the medicare program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Fraud and Abuse Control Act of 1995".

SEC. 2. ESTABLISHMENT OF MEDICARE FRAUD AND ABUSE CONTROL PROGRAM.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a program to improve the prevention, detection, and control of fraud and abuse under the medicare program.

(b) AWARD OF PORTION OF AMOUNTS COLLECTED TO INDIVIDUALS PROVIDING INFORMATION.—Under the program established pursuant to subsection (a), the Secretary shall pay a portion of any civil monetary penalty assessed under the medicare program to any individual or entity who provided information which served as the basis for the assessment of the penalty, under the same terms and conditions applicable to awards to qui tam plaintiffs under chapter 37 of title 31, United States Code.

SEC. 3. PROVIDING INFORMATION ON REPORTING FRAUD AND ABUSE WITH MEDICARE CLAIMS AND BENEFIT FORMS.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"SOLICITATION OF INFORMATION ON FRAUD AND ABUSE

"SEC. 1893. With each explanation of benefits provided to an individual to whom items or services are furnished under this title and with each notice of payment

Public Laws / Bills / House / 104th Congress / 1st Session / 1995

provided to an individual or entity furnishing an item or service for which payment is made under this title, the Secretary shall include a statement soliciting any information the individual or entity may possess on any fraud and abuse committed against the program under this title, together with a toll-free telephone number through which the individual or entity may report such information.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished and payments made under title XVIII of the Social Security Act on or after January 1, 1996.

SEC. 4. INCREASE IN AMOUNT OF PENALTIES.

(a) IN GENERAL.—

(1) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended—

(A) in subsection (a)—

(i) by striking "$2,000" and inserting "$4,000", and

(ii) by striking "$15,000" and inserting "$30,000"; and

(B) in subsection (b), by striking "$2,000" each place it appears and inserting "$4,000".

(2) CRIMINAL PENALTIES.—Section 1128B of such Act (42 U.S.C. 1320a–7b) is amended—

(A) in subsection (a)—

(i) by striking "$25,000" and inserting "$50,000", and

(ii) by striking "$10,000" and inserting "$20,000";

(B) in subsections (b), (c), and (d), by striking "$25,000" each place it appears and inserting "$50,000"; and

(C) in subsection (e), by striking "$2,000" and inserting "$4,000".

(3) STANDARDS FOR NURSING FACILITIES.—

(A) PROVIDING ADVANCE NOTICE OF SURVEY TO NURSING FACILITY.—Section 1819(g)(2)(A)(i) of such Act (42 U.S.C. 1395i@3(g)(2)(A)(i)) is amended by striking "$2,000" and inserting "$4,000".

(B) NONCOMPLIANCE WITH NURSING FACILITY STANDARDS.—Section 1819(h)(2)(B)(ii) of such Act (42 U.S.C. 1395i@3(h)(2)(B)(ii)) is amended by striking "$10,000" and inserting "$20,000".

(4) FAILURE TO PROVIDE INFORMATION ON REFERRING PHYSICIAN ON UNASSIGNED CLAIMS.—Section 1833(q)(2)(B)(i) of such Act (42 U.S.C.

1395l(q)(2)(B)(i)) is amended by striking "$2,000" and inserting "$4,000".

(5) DISTRIBUTION BY SUPPLIERS OF MEDICAL EQUIPMENT OF MEDICAL NECESSITY FORMS.—Section 1834(j)(2)(A)(iii) of such Act (42 U.S.C. 1395m(j)(2)(A)(iii)), as added by section 131(a)(1) of the Social Security Act Amendments of 1994, is amended by striking "$1,000" and inserting "$2,000".

(6) FAILURE TO INCLUDE DIAGNOSIS CODE ON UNASSIGNED CLAIMS.—Section 1842(p)(3)(A) of such Act (42 U.S.C. 1395u(p)(3)(A)) is amended by striking "$2,000" and inserting "$4,000".

(7) INTERMEDIATE SANCTIONS FOR PROVIDERS OR SUPPLIERS OF CLINICAL DIAGNOSTIC LABORATORY TESTS.—Section 1846(b)(2)(A)(ii) of such Act (42 U.S.C. 1395w@2(b)(2)(A)(ii)) is amended by striking "$10,000" and inserting "$20,000".

(8) MEDICARE SECONDARY PAYER.—

(A) OFFERING FINANCIAL INCENTIVES FOR BENEFICIARIES NOT TO ENROLL IN PRIMARY PLANS.—The second sentence of section 1862(b)(3)(C) of such Act (42 U.S.C. 1395y(b)(3)(C)) is amended by striking "$5,000" and inserting "$10,000".

(B) FAILURE OF EMPLOYER TO PROVIDE MATCHING INFORMATION ON SECONDARY PAYER SITUATIONS.—The second sentence of section 1862(b)(5)(C)(ii) of such Act (42 U.S.C. 1395y(b)(5)(C)(ii)) is amended by striking "$1,000" and inserting "$2,000".

(C) FAILURE OF PROVIDER TO PROVIDE INFORMATION ON AVAILABILITY OF OTHER PAYERS.—Section 1862(b)(6)(B) of such Act (42 U.S.C. 1395y(b)(6)(B)), as added by section 151(a)(2)(A) of the Social Security Act Amendments of 1994, is amended by striking "$2,000" and inserting "$4,000".

(9) IMPROPER BILLING BY HOSPITALS.—Section 1866(g) of such Act (42 U.S.C. 1395cc(g)) is amended by striking "$2,000" and inserting "$4,000".

(10) VIOLATION OF ANTI-DUMPING RESTRICTIONS.—Section 1867(d)(1) of such Act (42 U.S.C. 1395dd(d)(1)) is amended—

(A) by striking "$50,000" each place it appears and inserting "$100,000"; and

(B) in subparagraph (A), by striking "$25,000" and inserting "$50,000".

(11) SANCTIONS AGAINST HEALTH MAINTENANCE ORGANIZATIONS.—Section 1876(i)(6)(B)(i) of such Act (42 U.S.C. 1395mm(i)(6)(B)(i)) is amended—

(A) by striking "$25,000" and inserting "$50,000";

(B) by striking "$100,000" and inserting "$200,000"; and

(C) by striking "$15,000" and inserting "$30,000".

(12) REFERRALS BY PHYSICIANS WITH OWNERSHIP OR INVESTMENT INTERESTS.—

(A) IMPROPER CLAIMS.—Section 1877(g)(3) of such Act (42 U.S.C. 1395nn(g)(3)) is amended by striking "$15,000" and inserting "$30,000".

(B) CIRCUMVENTION SCHEMES.—Section 1877(g)(4) of such Act (42 U.S.C. 1395nn(g)(4)) is amended by striking "$100,000" and inserting "$200,000".

(C) FAILURE TO REPORT INFORMATION.—Section 1877(g)(5) of such Act (42 U.S.C. 1395nn(g)(5)) is amended by striking "$10,000" and inserting "$20,000".

(13) MEDICARE SUPPLEMENTAL POLICIES.—

(A) ISSUANCE OF POLICIES WHERE NO STANDARDS IN EFFECT.—The second sentence of section 1882(a)(2) of such Act (42 U.S.C. 1395ss(a)(2)) is amended by striking "$25,000" and inserting "$50,000".

(B) MISREPRESENTATIONS OF POLICIES.—Section 1882(d) of such Act (42 U.S.C. 1395ss(d)) is amended—

(i) in paragraphs (1), (2), and (4)(A), by striking "$5,000" and inserting "$10,000"; and

(ii) in paragraphs (3)(A) and (3)(B)(iv), by striking "$25,000 (or $15,000" and inserting "$50,000 (or $30,000".

(C) VIOLATION OF BENEFITS STANDARDS.—Section 1882(p) of such Act (42 U.S.C. 1395ss(p)) is amended by striking "$25,000 (or $15,000" each place it appears in paragraphs (8) and (9)(C) and inserting "$50,000 (or $30,000".

(D) VIOLATION OF GUARANTEED RENEWABILITY STANDARDS.—Section 1882(q)(5)(C) of such Act (42 U.S.C. 1395ss(q)(5)(C)) is

amended by striking "$25,000" and inserting "$50,000".

(E) VIOLATION OF LOSS RATIO STANDARDS.—Section 1882(r)(6)(A) of such Act (42 U.S.C. 1395ss(r)(6)(A)) is amended by striking "$25,000" and inserting "$50,000".

(F) VIOLATION OF PRE-EXISTING CONDITION STANDARDS.—Section 1882(s)(3) of such Act (42 U.S.C. 1395ss(s)(3)) is amended by striking "$5,000" and inserting "$10,000".

(G) MEDICARE SELECT POLICIES.—Section 1882(t)(2) of such Act (42 U.S.C. 1395ss(t)(2)) is amended by striking "$25,000" and inserting "$50,000".

(14) VIOLATION OF HOME HEALTH PARTICIPATION STANDARDS.—Section 1891 of such Act (42 U.S.C. 1395bbb) is amended—

(A) in subsection (a)(3)(D)(iii)(III), by striking "$5,000" and inserting "$10,000";

(B) in subsection (c)(1), by striking "$2,000" and inserting "$4,000" ; and

(C) in subsection (f)(2)(A)(i), by striking "$10,000" and inserting "$20,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to civil monetary penalties im-

posed with respect to acts or omissions occurring on or after January 1, 1996.

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